Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

The trustees were directed to sell the land at the death of the survivor of Thomas and his wife. Thomas and his wife died without issue. An originating summons is taken out to determine whether the remainder to the testator's children is valid, and whether the direction to sell worked a conversion of the property. *Held*, that the remainder is valid and the direction to sell void. *In re Garnham*, 115 L. T. R. 148 (Ch. D.).

The modern Rule against Perpetuities requires that an estate must be such as to certainly vest within twenty-one years plus the period of gestation after the death of a person living at the time a gift is made. The vesting of the estate within the period, not the coming into possession is what is required. *Murray* v. *Addenbrook*, 4 Russ. 407, 418. See GRAY, RULE AGAINST PERPETUITIES, 3 ed., § 205. Also the period of gestation is allowed by the Rule in addition to the twenty-one years. See LEWIS, LAW OF PERPETUITY, 147. Hence in the principal case neither the remainder to the children of Thomas nor the gift over to the children of the testator are barred by the Rule. But a long line of cases lay down an older and independent rule against "double possibilities." *Rector of Chedington's Case*, 1 Co. Rep. 373, 382; *Whitby* v. *Mitchell*, 44 Ch. D. 85, 90. See J. L. Thorndike "Contingent Remainders," *supra*, p. 238. It has, indeed, been doubted whether on principle this applies where the modern Rule against Perpetuities is satisfied. See LEWIS, LAW OF PERPETUITY, 420. At any rate, this older rule seems to be clearly confined to the case of a gift to a child of an unborn person. *In re Nash*, [1910] 1 Ch. 1, 9. See *Monypenny* v. *Dering*, 2 D. M. & G. 145, 170; WILLIAMS, REAL PROPERTY, 21 ed., 413. The mere fact that one parent may be unborn does not bring the case within this older rule, if the parent with reference to whom the child is identified is in being. *In re Bullock's Will Trusts*, [1915] 1 Ch. 493, 501. In the principal case the remainder is to the children of Thomas, a living person. This remainder, therefore, satisfies the older rule; and consequently there can be no objection to the gift over to the testator's children. But it is otherwise with the direction to sell. Where a power may be exercised at a time beyond the limits of the Rule against Perpetuities, it is void. *Hartson* v. *Elden*, 50 N. J. Eq. 522, 526; *Johnston's Appeal*, 185 Pa. St. 179, 189. See GRAY, RULE AGAINST PERPETUITIES, 2 ed., § 473; LEWIS, LAW OF PERPETUITY, 555. In the principal case the power may be exercised after the death of the wife of Thomas; and she may not be *in esse* at the time of the gift. The direction to sell, therefore, violates the Rule against Perpetuities, and is void.

SALES — IMPLIED WARRANTY — LIMITATION OF ACTION. — The plaintiff purchased from the defendant certain copper wire, ordered by description. In Georgia the statutory period of limitation on implied or oral contracts is four years; that on written contracts, six years. More than four but less than six years after the delivery of the wire the plaintiff brings an action for breach of an implied warranty of quality. *Held*, that the suit is not barred. *John A. Roebling's Sons Co.* v. *Southern Power Co.*, 89 S. E. 1075 (Ga.).

The court says that the implied warranty is "written into the contract by the law itself, and . . . is as much a part of the written contract as if expressed therein." Such a statement can only mean that all existing law must be deemed to have been within the contemplation of the parties and so, impliedly, form a part of their written agreement. The decisions of many eminent tribunals voice this conception. See *Hutchinson* v. *Ward*, 99 N. Y. Supp. 708, 709; *Leiendecker* v. *Aetna Indemnity Co.*, 52 Wash. 609, 611, 101 Pac. 219; *Edwards* v. *Kearzey*, 96 U. S. 595, 601. Clearly this is a fiction. Nor do the cases support so broad a proposition. The duty to use due care in forwarding goods intrusted to a common carrier, on a contract of shipment beyond the carrier's line, is held to be a separate unwritten promise and not an integral part of the written agreement. *Penn. Co.* v. *Chicago, etc. Ry.*, 144 Ill. 197, 33 N. E. 415. So,

likewise, is the implied promise to restore upon which the purchaser of land is allowed, upon non-conveyance by the vendor, to recover the price paid, in quasi-contract. *Thomas* v. *Pacific Beach Co.*, 115 Cal. 136, 46 Pac. 899. *Duncan* v. *Gibson*, 17 Utah 209, 53 Pac. 1044. The decisions would seem to draw the line between such implied contracts as those just cited, on the one hand, and all implied warranties, as in the principal case, on the other. *Bancroft* v. *San Francisco Tool Co.*, 47 Pac. 684 (Cal.); *Meade* v. *Warring*, 35 S. W. 308 (Tex. Civ. App.). Such a distinction is hardly satisfactory. The cases of implied warranties, despite the broad language of the opinions, usually involve warranties of goods ordered by description only. The principal case is of this type. Here it may well be argued that a fair interpretation of the language shows that the parties in fact contemplated goods of a fair quality of the description specified, and not any goods of that description. See WILLISTON, SALES, § 230. But when the sale is of a specific chattel, the implied warranty cannot be derived from the terms of the bargain. It is imposed upon the vendor regardless of the intent of the parties by operation of law, and should be subject to any statutory limitations upon unwritten or implied contracts.

SALES — STOPPAGE *IN TRANSITU* — SELLER'S LIABILITY FOR FREIGHT. — A vendor sold goods on credit. The purchaser contracted with a shipowner to pay for their transportation. On learning of the purchaser's insolvency, the vendor stopped the goods *in transitu*, but did not take possession of them. The carrier sues the vendor for the freight. *Held*, that he may recover. *Booth Steamship Co.* v. *Cargo Fleet Iron Co.*, [1916] 2 K. B. 570 (Ct. of App.).

In most cases of stoppage *in transitu* the carrier is amply protected by his lien on the goods. The novel point presented by the principal case can, therefore, only arise when the goods at the point of stoppage are not worth enough to pay the freight. Stoppage *in transitu*, being a right of purely equitable nature, is not allowed where it would be unfair to the carrier. See WILLISTON, SALES, § 541. In view of this principle, if the right to stop is clearly given the seller, an exercise of the right should obligate him to indemnify the carrier for any loss caused thereby. But the loss occasioned in a case like the principal case would be only the amount which the carrier could recover from the insolvent buyer. Hence this quasi-contractual remedy would not give the carrier the full price of the freight. But the principal case finds full support on another theory. Formerly a stoppage *in transitu* was effective only if the seller secured actual possession of the goods. See *Snee* v. *Prescott*, 1 Atk. 245, 248. The present method, by mere notice, is really a short cut to the same result, for the stoppage gives the seller only a lien, which depends for its effectiveness on his possession. See *Newhall* v. *Vargas*, 15 Me. 314. It is not unreasonable, therefore, to imply from the seller's notice to stop a promise by him to take possession of the goods. But in order to obtain possession, the seller must discharge the carrier's lien for freight. *Potts* v. *New York & New England R. Co.*, 131 Mass. 455; *Pennsylvania Steel Co.* v. *Georgia R., etc. Co.*, 94 Ga. 636, 21 S. E. 577. It would therefore follow that a promise to discharge the lien is likewise implied in the order.

TRUSTS — CREATION AND VALIDITY — CONDITION CONTRARY TO PUBLIC POLICY. — A settlor placed certain funds in trust for the plaintiff until he should come of age. The interest on this sum was to be paid for the plaintiff's maintenance. But no interest was to be paid unless the father, in whose custody he then was, should give up all control over him. Plaintiff seeks to have interest paid him while still in his father's control. *Held*, that the condition is enforceable. *Re Borwick's Settlement*, 115 L. T. R. 183 (Ch. D.).

As in the case of contracts, conditions in gifts and testamentary dispositions making the effectiveness of the gift dependent on the doing of an act contrary to